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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,478	10/27/2003	Christopher Albright	1338	4262
7590 06/15/2005				
DAVID J. ARCHER 7037 POMEROY RD ROCKTON, IL 61072		EXAMINER SORKIN, DAVID L		
		ART UNIT 1723		PAPER NUMBER
DATE MAILED: 06/15/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,478

Applicant(s)

ALBRIGHT ET AL.

Examiner

David L. Sorkin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 41 and 48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 41 and 48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Applicant is advised that should claim 41 be found allowable, claim 48 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 41 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0 706 755. EP ('755) discloses a mixer apparatus comprising a container (8) including a housing (in which 4 and 10 are located; see Fig. 2); a wall (11) extending away from the housing and defining an opening remote from the housing (see Figs. 1 and 2); auger (6) disposed within the enclosure having axis extending through the housing, the auger including a core and flighting (7), said flighting including first and second staggered portions (see Figs. 2 and 3).

4. Claims 41 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Behrens (US 3,421,740). Behrens ('740) discloses a mixer apparatus comprising a

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container including housing (that which holds 76, 78, 80, 82, 84, 86 and 88; see figs. 2 and 4), a wall (12) extending away from said housing defining an opening (at top of fig. 4) disposed remote from said housing, the wall and housing defining an enclosure; an auger (40) disposed within said enclosure, said auger having an axis of rotation extending through the housing; said auger including, a core (see fig. 2); flighting (42,44,48,50) connected to said core; said flighting including a first portion (42) and a second portion (44) staggered relative to the first portion (see figs. 7A and 7B).

5. Claims 41 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by Fukushima et al. (US 5,823,667). Fukushima ('667) discloses a mixer apparatus comprising a container including a housing (that which hold transmission 8, see fig. 1), a wall (2) extending away from said housing defining an opening (9 or 10) disposed remote from said housing, the wall and housing defining an enclosure; an auger (16) disposed within said enclosure, said auger having an axis of rotation extending through the housing; said auger including, a core (17c, 18d, 17b in figs. 7A and 7B and 6a in Fig. 14); flighting (18a and 6) connected to said core; said flighting including a first portion and a second portion staggered relative to the first portion (see figs. 7A, 7B and 14).

Conclusion


6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to David L. Sorkin whose telephone number is 571-272-1148. The examiner can normally be reached on 9:00 -5:30 Mon.-Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L. Walker can be reached on 571-272-1151. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David L. Sorkin
Primary Examiner
Art Unit 1723

DLS